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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/842,446	04/26/2001	Loren Christensen	33557	7551

116 7590 03/02/2005

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EXAMINER
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RAYYAN, SUSAN F

ART UNIT	PAPER NUMBER
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2167

DATE MAILED: 03/02/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b>	<b>Applicant(s)</b>	
	09/842,446	CHRISTENSEN, LOREN	
	<b>Examiner</b>	<b>Art Unit</b>	
	Susan F. Rayyan	2167	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) ☒ Responsive to communication(s) filed on 26 April 2001.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) ☒ Claim(s) 1-19 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-19 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- |   |   |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)  | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date <u>7/01, 2/03, 4/04</u> . | 6) <input type="checkbox"/> Other: _____  |

DETAILED ACTION

1. Claims 1-19 are pending.
2. Information Disclosure Statements filed on July 18, 2001, February 7, 2003 and April 13, 2004 have been considered.

Claim Rejections - 35 USC § 103

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. **Claims 1-19 are rejected under 35 U.S.C. 103(a) as being unpatentable over Baru et al (US 5,970,495) and Razdow et al (US 6,330,008).**

As per claims 1,7,14 Baru teaches:

receiving collected data objects from at least one data collection node using at least one performance monitoring computer whereby a distributed database is created at col.7, lines 1-33;

partitioning the distributed database into data hunks using ... a running on at least one performance monitoring server computer at col. 7, lines 32-34;

importing the data hunks into a plurality of delegated database engine instances located on at least one performance monitoring server computer so as to parallel

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process the data hunks whereby processed data is generated at col7, lines 34-46;

accessing the processed data using at least one performance client computer to monitor data object performance at col.7, lines 1-6.

Baru does not explicitly teach histogram however Razdow does teach this limitation at abstract. It would have been obvious to one of ordinary skill in the art at the time of the invention to combine the cited references to provide a visual display of information on the performance of a plurality of processors at col.2, lines 34-38.

As per claims 2,8,15 same as claim arguments above and Baru teaches: at least one database engine instance is located on the performance monitor server computers on a ratio of one engine instance to one central processing unit whereby the total number of engine wherein instances is at least two so as to enable the parallel processing of the distributed database at col.4, lines 60-64.

As per claims 3,9,16 same as claim arguments above and Baru teaches: wherein at least one database engine instance is used to maintain a versioned master vector table at col.7, lines 27-41.

As per claims 4,10,17 same as claim arguments above and Baru teaches: wherein the versioned master vector table generates a ...routine used to facilitate the partitioning of the distributed database at col.7, lines 27-41.

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As per claims 5,11,18 same as claim arguments above and Baru teaches: dividing the total number of active object identifiers by the desired number of partitions so as to establish the optimum number of objects per partition; generating an n point histogram of desired granularity from the active indices; summing adjacent histogram routine generated values until a target partition size is reached but not exceeded at col.5, lines 33042 and col 7, lines 27-41, Razdow teaches these limitations in a manner similar to the Applicants claim language.

As per claims 6,12,19 same as claim arguments above and Baru teaches: wherein the performance monitor server comprises an application programming interface compliant with a standard relational database query language at col. 4, lines 10-25.

As per claim 13 same as claim arguments above and Razdow teaches: wherein at least one performance monitor client computer is connected to the network so as to communicate remotely with the performance monitor server computers at fig.1.

### Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Susan Rayyan whose telephone number is (571) 272-4117. The examiner can normally be reached M-F: 8am - 4:30pm.

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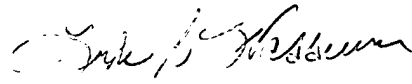
If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, John Breene can be reached on (571) 272-4107 The fax phone numbers for the organization where this application or proceeding is assigned are (703) 872-9306 for Official communications, (703) 746-7238 for After Final communications and (703) 746-7240 for Status inquires and draft communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (571) 272-2100.

Susan Rayyan



February 28, 2005

  
Primary Examiner